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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Raul G. Barletta et al.  
Serial No. 09/759,287  
Filed January 11, 2001  
Confirmation No. 9782  
For IDENTIFICATION OF VIRULENCE DETERMINANTS  
Examiner R. Swartz

Art Unit 1645

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

#7  
Harry  
Feb. 9, 02

January 25, 2002

**RESPONSE TO RESTRICTION REQUIREMENT**

This letter is in response to the Office action dated January 3, 2002, in which an election of claims between Group I, drawn to claims 1-14, Group II, directed toward claims 15-42, Group III, directed toward claims 43-44, and Group IV, drawn to claims 45-53, for prosecution on the merits was requested.

According to 35 U.S.C. §121, a restriction is proper only if there are at least two independent and distinct inventions. Furthermore, "[i]f the search and examination of an entire application can be made **without serious burden**, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."<sup>1</sup>

In this case, restriction is not proper. Group I claims are drawn to a method for determining virulence determinants of bacteria, Group II claims are directed toward a composition for

<sup>1</sup> MPEP § 803 (emphasis added).

UNL 2999.01

PATENT

immunizing an animal against bacteria wherein the composition is produced by the method of Group I claims, Group III claims are drawn to a method for inducing an immune response in an animal by administering to the animal a composition of Group II claims, and Group IV claims are drawn to a method for diagnosing infection by a bacteria comprising identifying a bacterial virulence determinant identified by the method of Group I claims, respectively. Each Group of claims, accordingly, shares in common the method of Group I claims. Any search of the prior art and examination involving Group I claims, therefore, will necessarily co-extend with the search and examination of Group II, Group III, and Group IV claims. Further, the prior art regarding methods to determine virulence determinants in bacteria is sufficiently sparse to allow the examination of these claims without undue burden. Thus, since the examination of the entire application may be made without serious burden, the claims of each of Groups I, II, III and IV should be examined together in accordance with MPEP § 803.

Applicants, subject to the foregoing traverse, hereby elect to prosecute the claims of Group I, claims 1-14, drawn to a method for determining virulence factors of a bacteria.

UNL 2999.01  
PATENT

Applicants reserve the right to file divisional applications directed to the subject matter of the non-elected claims.

Respectfully submitted,



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